

FILED
DISTRICT COURT OF GUAM
SEP 30 2003
MARY L. M. MORAN
CLERK OF COURT

50

032 PAGE 1 of 4
ORIGINAL

1
2 Relief Sought
3

4 Plaintiff moves the court for an ORDER quashing the Notice
5 of Deposition and Subpoena for records by law offices of
6 CARLSMITH BALL LLP. Date scheduled in these notices is
7 Untimely.
8

9 Grounds for Motion
10

11 1) Rule 26(C)(1) of the federal rules of civil Procedure
12 permits this court to enter a protective order reliving a
13 party from obligation created by a deposition notice that
14 (1) do not provide "reasonable" notice as required by rule
15 30(b)(1). And (2) that is untimely under the DEFENDANT'S
16 SCHEDULING ORDER AND DISCOVERY PLAN under the parties
17 mutually agreed and the Court case management **ORDER** by the
18 Court. **EXHIBIT B.**

19 2) The discovery cutoff date is on October 1, 2003.

20 3) Plaintiff had agreed to extend discovery cutoff date to
21 October 30 2003, due to defense counsel Ms. McDonald
22 residing off island and Mr. David Ledger having a compact
23 Schedule, this extension was effectually accommodated.
24 **EXHIBIT C.**
25

- 1 4) Defendant furthermore requested to change dates of
2 Discovery Motions and Discovery Motions hearings, which
3 Plaintiff will not agree to such stipulation and intend to
4 assert by it due to the fact it was omitted from the
5 initial agreement.
- 6 5) Defense counsel residing off island should have no impact
7 on scheduling order that was previously ORDRED. As the law
8 firm employees many other attorneys on Guam.
- 9 6) Defendant has had ample opportunities to depose witnesses,
10 Plaintiff asserts that this corporate legal strategy and
11 tactic is to prevent Plaintiff to file a Motion to compel
12 discovery.
- 13 7) Plaintiff lacks funds to retain attorney to object to
14 questions and it is hard to answer question and object at
15 the same time. This would serve justice to the rich and not
16 low income families that been harmed by corporations.
- 17 8) Defendant may not violate plaintiff's Procedural Due
18 Process and fair justice once again and depose Plaintiff at
19 CARL SMITH law firm and have both home field and
20 psychological advantage over the pro plaintiff.
- 21 9) Defendant once again is violating Plaintiff's Procedural
22 Due Process and Constitutional rights. Declaration of Mark
23 Williams attached. **EXHIBIT D.**
- 24
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DECLARATION

Certification of Attempt to Resolve Dispute Without Court Action

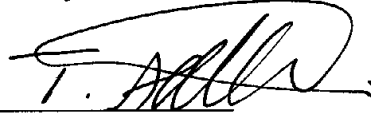
I, Tony H. Ashtiani, pro se plaintiff declare and solemnly swear under the penalty and perjury under the United States laws that Attorney Mr. David Ledger Esq, and I have Attempted to Resolve Dispute Without Court Action. By signing the undersigned Plaintiff certifies that as required by Rule 26(c), 30(c)(d) of the Federal Rules of Civil procedure, Plaintiff conferred with Defense counsel by telephone on September 22, 2003 and matter remains in dispute.

I have read the forgoing contents there of; and that the same is true to my knowledge, except as to matters stated on information and belief, which matters I believe to be true.

I declare under penalty of perjury that forgoing is true and correct.

Date: September 30TH, 2003 .

Tony H. Ashtiani,

A handwritten signature in black ink, appearing to read 'T. Ashtiani', written over a horizontal line.

Pro se litigant

COPYIssued by the
UNITED STATES DISTRICT COURTDISTRICT OF GUAM U.S.A.**TONY H. ASHTIANI,**

Plaintiff,

V.

**CONTINENTAL MICRONESIA, INC.
dba CONTINENTAL MICRONESIA, and
CONTINENTAL AIRLINES, INC.,**

Defendant.

SUBPOENA IN A CIVIL CASECASE NUMBER: ¹ **CIV02-00032**TO: **Dr. Alix Chenet
612 North Marine Drive
Suite 8, Dededo, Guam 96929**☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

**CARLSMITH BALL LLP
Suite 401, Bank of Hawaii Building
134 West Soledad Avenue
Hagatna, Guam 96910**

DATE AND TIME

**October 10, 2003
9:00 a.m.**☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Attorneys for Continental Micronesia, Inc.**September 18, 2003**

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

**Elyze McDonald, Esq.
CARLSMITH BALL LLP
Suite 401, Bank of Hawaii Building
134 West Soledad Avenue
Hagatna, Guam 96910** **#(671) 472-6813**

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

If action is pending in district other than district of issuance, state district under case number.

Case 1:02-cv-00032

Document 52

Filed 09/30/2003

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Filed: 9/18/03

COPY United States District Court

DISTRICT OF GUAM U.S.A.

TONY H. ASHTIANI,

Plaintiff,

V.

SUBPOENA IN A CIVIL CASECONTINENTAL MICRONESIA, INC.
dba CONTINENTAL MICRONESIA, and
CONTINENTAL AIRLINES, INC.,

CASE NUMBER: CIV02-00032

Defendant.

TO: Dr. Juan Rapadas
120 West O'Brien Drive
Hagatna, Guam 96910☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

CARLSMITH BALL LLP
Suite 401, Bank of Hawaii Building
134 West Soledad Avenue
Hagatna, Guam 96910

DATE AND TIME

October 10, 2003
1:30 p.m.☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Attorneys for Continental Micronesia, Inc.

September 18, 2003

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Flyze McDonald, Esq.
Carlsmith Ball LLP
Suite 401, Bank of Hawaii Building
134 West Soledad Avenue
Hagatna, Guam 96910

#(671) 472-6813

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

Rec'd: [Signature] 9/18/03

CARLSMITH BALL LLP

ELYZE MCDONALD
134 West Soledad Avenue
Bank of Hawaii Bldg., Suite 401
P.O. Box BF
Hagåtña, Guam 96932-5027
Tel. No. (671) 472-6813

Attorneys for Defendants
Continental Micronesia, Inc.
dba Continental Micronesia
and Continental Airlines, Inc.

IN THE DISTRICT COURT OF GUAM

TONY H. ASHTIANI,

Plaintiff,

vs.

CONTINENTAL MICRONESIA, INC.
dba CONTINENTAL MICRONESIA, and
CONTINENTAL AIRLINES, INC.,

Defendants.

CIVIL CASE NO. CIV02-00032

AMENDED NOTICE OF DEPOSITION

TO: TONY H. ASHTIANI

PLEASE TAKE NOTICE that Continental Micronesia, Inc., Defendant in the above-entitled action, will take the deposition of TONY H. ASHTIANI at the law offices of Carlsmith Ball LLP, Suite 401, Bank of Hawaii Building, 134 West Soledad Avenue, Hagåtña, Guam 96910, on the dates and times specified below:

DATE:

Wednesday, October 8, 2003

Thursday, October 9, 2003

TIME:

9:00 a.m. - 12:30 p.m.

9:00 a.m. - 12:30 p.m.

4844-5464-2176.1.013280-00079

T. Ashtiani
Sep. 24, 2004.
11:40 AM.

emotional and intentional distress and mental anguish;

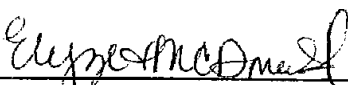
d. other subjects and issues as required.

5. Other than the 25 count limit on Interrogatories and Requests for Admissions, Plaintiff does not anticipate requiring any other changes or limitations on discovery as may be imposed under federal or Local Rules.

6. The discovery cut-off (defined as the last day to file responses to written discovery) is October 1, 2003. Depositions may be taken until the cutoff date and as provided above in paragraphs 3 and 4.

Dated this 30th day of April 2003.

CARLSMITH BALL LLP



DAVID LEDGER
ELYZE MCDONALD
Attorneys for Defendant
Continental Micronesia, Inc. dba Continental
Micronesia and Continental Airlines, Inc.

Dated this 30th day of April 2003.

TONY ASHTIANI, PRO SE

TONY ASHTIANI, PRO SE
Plaintiff

SO ORDERED this MAY 21 2003.

/s/ John S Unpingco

JOHN S. UNPINGCO
Chief Judge, District Court of Guam

Tony H. Ashtiani
P.O.Box 12723
Tamuning Guam 96931
TEL/FAX 1-(671) 653-5575
CELL 1-(671) 688-4844

September 8, 2003.

CARLSMITH BALL LLP

Ms. Elyze McDonald
Bank of Hawaii Bldg., Suite 401
134 West Soledad Avenue
Hagatna, Guam 96932-5027

Re: "Meet and Confer" & Discovery cut off extension.

In District Court of Guam CV 02-00032

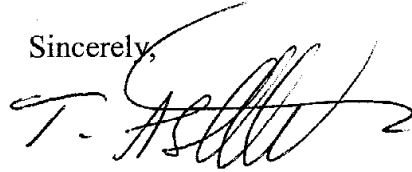
Dear Attorneys Mr. Ledger and Ms. McDonald:

Thank you for your letter dated September 3, 2003. In which you are requesting to meet and confer via telephone, I am preparing for a summarized meeting so that it will not take much of our time.

Furthermore, you had requested 30 (thirty) days extension on discovery cut off date due to compact schedule of Mr. Ledger, I will be more than happy to accommodate you this extension.

I respectfully ask that the time frame of the deposition does not interfere with dropping or picking up my children at school or the time after school, which is to assist with their homework. Other than that, I am available from 8:30 a.m. to 1:30 p.m.

Sincerely,



Tony H. Ashtiani

RECEIVED
CARLSMITH BALL

date: 9/8/03
n: 2:01 By: SMC

DECLARATION

DECLARATION OF MARK E. WILLIAMS

I, Mark E. Williams, declare as follows:

(12) ^{JULY}
On ~~June 2~~, 2001 at approximately 10:30 a.m., Guam time, I contacted Ms. Teresa Sage of the Continental Airlines Human Resources Office by phone and advised her of this office's representation of Mr. Tony Ashtiani, and requested information regarding the subject matter of the pending hearing or conference between the Management of Continental Airlines and Mr. Ashtiani involving Mr. Ashtiani's disciplinary action, and his related appeal/grievance of such action. I further requested information necessary for the preparation of Mr. Ashtiani and this office for such conference or hearing. However, Ms. Sage refused to provide any such requested information or to acknowledge this office's representation of Mr. Ashtiani. Instead, Ms. Sage directed me to contact Continental's legal office in Houston, which we were unable to do by phone as the office in Houston was apparently closed at that hour.

I declare that I have firsthand knowledge of the foregoing facts, that I have read the foregoing statement and that the information contained herein is true and correct to the best of my knowledge and belief, and that if called as a witness, I could testify competently thereto. I further hereby declare that this declaration is executed under penalty of perjury at Hagatfa, Guam on

3/20/02

(Date)

Mark E. Williams
Printed Name

[Signature]
Signature

conduct of the holder of the privilege indicating his consent to the disclosure, including his failure to claim the privilege in any proceeding in which he has the legal standing and opportunity to claim the privilege.

(b) Where two or more persons are joint holders of a privilege provided by 503(c) (lawyer-client privilege), (f) (physician-patient privilege), or (g) (psychotherapist-patient privilege), a waiver of the right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege. In the case of the privilege provided by 503(c) (privilege for confidential marital communications), a waiver of the right of one spouse to claim the privilege does not affect the right of the other spouse to claim the privilege.

(c) A disclosure that is itself privileged is not a waiver of any privilege.

(d) A disclosure in confidence of a communication that is protected by a privilege provided by 503(c) (lawyer-client privilege), (f) (physician-patient privilege), or (g) psychotherapist-patient privilege), when such disclosure is reasonably necessary for the accomplishment of the purpose for which the lawyer, physician, or psychotherapist was consulted, is not a waiver of the privilege.

SOURCE: Guam Law and Practice. There is no equivalent version in the Federal Rules of Evidence.

§503. Particular Privileges. Except as otherwise required by the Organic Act of Guam or provided by Act of the Guam Legislature, the privileges of a witness, person, government, State, or political subdivision thereof shall include:

(a) the privilege of a Defendant in a criminal case not to be called as a witness and not to testify

(b) the privilege against self-incrimination

- (c) the attorney-client privilege
- (d) the privilege not to testify against one's spouse
- (e) the privilege for confidential marital communication
- (f) the physician-patient privilege
- (g) the psychotherapist-patient privilege
- (h) the clergyman-penitent privileges.

SOURCE: Guam Law and Practice.

CROSS-REFERENCES: 8 GCA §1.11 - Rights of Defendant Enumerated.

COMMENT: The Federal Rules of Evidence do not establish particular privileges, leaving it to the determination of the courts. Guam has seen fit to set forth the particular privileges it recognizes.

§503.1. Privileged communications and information to Crime Stoppers organizations. (a) Definitions. For purposes of this section:

(1) *Crime Stoppers organization* means a private, nonprofit organization that accepts and expends donations for rewards to persons who report to the organization information concerning criminal activity and that forwards the information to the appropriate law enforcement agency;

(2) *Privileged communication* means information provided by any person, in any manner whatsoever, to a Crime Stoppers organization in reporting alleged criminal activity;

(3) *Protected information* means the identity of the person reporting criminal activity to a Crime Stoppers organization, any records, statements (oral, written or recorded), papers, documents or any materials whatsoever utilized by a Crime Stoppers organization in reporting criminal activity or in processing such information, whether such information is in the possession of a Crime Stoppers organization, a police "Crime Stoppers" coordinator or his